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May 30, 2008

BY FACSIMILE (212) 805-7928

Hon. Michael H. Dolinger
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Room 2270
New York, NY 10007

1. FILING STAY
2. MOTION
3. ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 6/1/08

Re: *Signature Bank v. Ahava Food Corp., et al., 08 Civ. 3893*

Dear Judge Dolinger,

As you know, we represent Signature Bank ("Signature") in the above-entitled action. I write to seek the Court's assistance in compelling defendant Ahava of California, LLC ("AOC") to produce documents and a witness in accordance with the Court's prior orders.

Specifically, AOC refuses to produce any of the documents listed in the enclosed email to Robert Hirsh, counsel for AOC, despite the facts that the documents were the subject of proper requests, that those requests were not properly objected to, and that AOC has been ordered twice by Your Honor to produce those documents, once on May 23, 2008 and again on May 27, 2008.

Signature requests that the Court enter an order of sanctions against AOC, specifically: (i) directing AOC to produce the requested documents by June 2, 2008, at AOC's expense; (ii) directing AOC to produce Fariborz Banayan for deposition on June 4, 2008; and (iii) compelling AOC to pay Signature \$2,000 for its reasonable costs and fees in pursuing discovery from AOC to this point.

I am available this afternoon for a conference call if the Court wishes to discuss this matter with counsel. My direct dial number is 212-592-5981.

Respectfully submitted,

John Oleske

ENDORSED ORDER
The relief sought by Plaintiff
is denied, subject to the
conditions specified in our
order dated May 30, 2008.
5/31/08 *M. L. Oleske*

cc: Robert Hirsh, Esq.
David Antonucci, Esq.

Oleske, John

From: Feuerstein, David
Sent: Thursday, May 29, 2008 7:33 PM
To: 'hirshlaw@yahoo.com'
Cc: David Antonucci; 'Lawrence Fox'
Subject: Signature v. Ahava et al — Discovery Issues

Rob,

I write in furtherance of our discussion this afternoon concerning Ahava of California's ("AOC") production of documents. As you requested, the following is a list documents that should have been produced by AOC -- either pursuant to the Court's order or our document requests -- but were not:

- 1) Documents reflecting AOC's current inventory
- 2) Sales journals or invoice registers
- 3) Cash Receipt Journals
- 4) Check Registers
- 5) Current bank account statements from the Citibank accounts (there were no account statements beyond December 2007)
- 6) Current General Ledger (the most recent version is from December 2007, and is evidently incomplete)
- 7) A current accounts payable aging report (the most recent version we received was from March 2008, the value of which is minimal)
- 8) Copies of the most recent checks issued in payment of AOC's lease obligations
- 9) Year to date financial statements for AOC ending April 30, 2008, including cash flow and balance sheet statements generated from the accounting systems
- 10) Any emails concerning the topics in our document requests

If we do not receive these documents or a satisfactory explanation from you by noon tomorrow, we intend to raise these deficiencies with Judge Dolinger.

Regards,

Dave

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